

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

Albert W. Florence,

Plaintiff,

-against-

**Board of Chosen Freeholders of the County of
Burlington; et. al.**

Defendants.

Case No. 05-3619(JHR)

**CERTIFICATION of
SUSAN CHANA LASK, ESQ.**

I, SUSAN CHANA LASK, ESQ., of full age do certify under penalty of perjury as follows:

1. I am appointed class counsel in this matter. This case was filed July 20, 2005.
2. Attached is Defendants' Burlington Strip Search Authorization Form specifying that no reasonable suspicion that contraband or a weapon was concealed nor was an indictable offense committed by the individual stripped naked (**Exhibit "A"**).
3. On or about September 25, 2005, during a conference call including Plaintiff's counsel Mr. Calabro and myself, Mr. DiDonato confirmed strip searching is Defendants' policy. He stated he was counsel on a District case that decided Defendants' strip search policy was constitutional. Mr. DiDonato never sent that case.
4. On September 30, 2005, Mr. DiDonato e-mailed that he was counsel in a former New Jersey District Court case that approved his clients' blanket strip search policy, and I emailed that he send me that case (**Exhibit "B"**). Mr. DiDonato replied " I am pulling my file on the other case to see if I ever got an opinion or just an order." (see **Exhibit B**). He ignored my requests for him to provide his case, order or decision for three years.
5. On or about October 26 , 2005, Mr. DiDonato confirmed in a phone call to me that his client has a right to perform blanket strip searches and that he would send supporting case law.
6. On January 4, 2007, I, my legal assistant, Brooks DiDonato for Defendants Burlington and Alan Ruddy for Defendants Essex appeared before Magistrate Schneider and his law clerk for a settlement conference. Mr. DiDonato stated Burlington would not settle because he was counsel in a former New Jersey District Court case that held his client's strip search policy was constitutional and he would file summary judgment in this case based on that case. Mr. DiDonato never filed a motion nor provided the alleged case.
7. During an August 8, 2008, at 2:00 p.m., phone conference with Honorable Rodriguez

initiated by Mr. DiDonato, he argued for an extension to respond to Plaintiff's Summary Judgment Motion, claiming he won a decision from New Jersey District Court Judge Brown that Defendant Burlingtons' strip searches were constitutional.

8. Defendants' August 20, 2008 paragraph 4 of his Affidavit and pages 4-5 of his Brief, Mr. DiDonato for the first time in 3 years reveals the case name of Gerber v. City of Burlington, et al.. He certifies that Defendant Burlington was following a court order from Gerber that their strip searches were constitutional. He simultaneously certifies a decision is "extant".

9. The Gerber docket reveals Mr. DiDonato's February 25, 1997 motion for Summary Judgment and no opposition filed (see Doc. No.26-30, **Exhibit "C"**). There is a March 25, 1997 Order granting summary judgment, without any decision.

10. I researched online MRSA. It is determined by a nose sawb and laboratory culture. I strip serach does not reveal MRSA.

11. Attached is Defendants' FRCP 26 disclosure regarding their being self insured (**Exhibit "D"**).

12. Attached is Defendants' website disclosing their status as Freeholders being an incorporated body politic and "The official governing body for the County of Burlington" which has "both administrative and policy making powers."(**Exhibit "E"**). .

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: September 22, 2008

/s Susan Chana Lask

SUSAN CHANA LASK, ESQ.
Law Offices of Michael V. Calabro
466 Bloomfield Avenue, Suite 200
Newark, New Jersey 07107
(973) 482-1085

08/30/2005 09:08 FAX 809 702 7077

INS & RISK MGMT BURL CO -> BERKLEY

0008

EXHIBIT A

STRIP SEARCH AUTHORIZATION

RF 100

DATE: _____ TIME: _____ 2005 MAR -3 12 11: 07


I, Sgt. Clinton AUTHORIZED Florence, Albert
(PRINT NAME) (PRINT NAME)TO BE STRIP SEARCHED OR NOT TO BE STRIP SEARCHED FOR THE FOLLOWING
REASON (S):

- ☐ INDIVIDUAL DETAINED FOR INDICTABLE OFFENSE.
- ☐ REASONABLE SUSPICION THAT INDIVIDUAL IS CONCEALING CONTRABAND OR WEAPON. (MUST BE EXPLAINED BELOW).
- ☐ REASONABLE SUSPICION THAT INDIVIDUAL IS SUFFERING FROM A COMMUNICABLE DISEASE. (MUST BE EXPLAINED BELOW).
- ☐ INDIVIDUAL FAILS TO PROPERLY IDENTIFY HIMSELF.

EXPLANATION: _____

☒ INDIVIDUAL WAS NOT STRIP SEARCHED: NONE OF THE ABOVE FACTORS ARE PRESENT.

INDIVIDUAL WAS SHOWERED, KWELLED AND VISUAL OBSERVATION WAS MADE FOR RECENT INJURIES ☒ YES ☐ NO


SUPERVISORS SIGNATURE

FORM JL 29

----- Original Message -----

EXHIBIT B

From: Brooks DiDonato **To:** Susan Lask
Sent: Friday, September 30, 2005 2:19 PM
Subject: RE: Florence-StripSearch

We shall agree to disagree on the law. I am pulling my file on the other case to see if I ever got an opinion or just an order, but the procedure was approved after Davis in a factually similar case, **perhaps giving rise to good faith immunities**. **As for the form, my secretary said there isn't one, but i will believe you. See Ya, Brooks**

From: Susan Lask [mailto:suethemall.com@verizon.net]
Sent: Friday, September 30, 2005 1:54 PM
To: Brooks DiDonato **Cc:** Michael Calabro
Subject: Re: Florence-StripSearch

I disagree with two things-one, I don't think you're a "country mouse" and two, I think the Davis case and its progeny is the law; however, **please send me your opposite case as I would like to see it. As to the form, J. Rosen's clerk said there is one---I will use my NY fed Forms which is pretty detailed and send it to you with dates, etc. by Monday as that will save alot of time before the conference and we are required to do so beforehand anyhow. As agreed, we will request a phone conference. Thank you, Susan.**

----- Original Message -----

From: Brooks DiDonato **To:** Susan Lask
Sent: Friday, September 30, 2005 1:29 PM
Subject: RE: Florence-StripSearch

I may be a bit of a country mouse, but **a non-binding district court decision does not a case make**. I have one that says the exact opposite on an almost identical fact pattern, albeit unreported to my knowledge. We will see how it shakes out. As for the form, I was wrong there is no form. We will go to the conference, agree on some dates and if Rosen thinks its okay the ocourt will issue an order on its own or ask us to submit one. I don' t need much other than your guys dep so if you would like to run some dates by me I am sure we can agree before going in. Have a nice weekend.
Brooks

From: Susan Lask [mailto:suethemall.com@verizon.net]
Sent: Friday, September 30, 2005 9:50 AM
To: Brooks DiDonato **Cc:** Michael Calabro
Subject: Florence-StripSearch
Dear Brooks,

Your September 13, 2005 letter to me claims that Plaintiff has no basis for his claims against the County of Burlington because the Plaintiff signed a strip search authorization form and the search, you claim, was just for inspection purposes. Your position is wholly contrary to the law . Davis v. City of Camden, 657 F. Supp. 396 (D.N.J. 1987). Please note that it is unconstitutional to subject any any detainee to the humiliation of being stripped when there is no reasonable suspicion of a weapon or contraband, especially detainees in your jail for minor offenses. Your letter actually supports Plaintiff's position and the law that the "offense" was minor as you state Plaintiff "was admitted on that date

pursuant to a detainer...for Civil Contempt pursuant to N.J.S.A/. 2a:10-1c". As we know, civil contempt pursuant to a detainer is not a crime demanding stripping Plaintiff, making him squat and cough and being checked over by Jail Officers. Kindly refer to the abundance of case law on this issue following Davis. As well, your letter's admission that Defendants make this "strip search" their policy literally opens them up to a class-action suit if that is and has been their policy with respect to other detainees. I suggest pursuant to the law they change that policy quickly and insure non-violent, low grade detainees are not stripped in any way.

Lastly, confirming again my call and e-mail to you two days ago wherein I am attempting to coordinate a schedule before the 10/26/05 conference to which you said you would send me the Form via e-mail--I would appreciate that as I am willing to take the time for you to organize the dates and then send for your consideration.

Thank you so much, Susan.

EXHIBIT B

EXHIBIT C

3:95-cv-03043-GEB GERBER v. CITY OF BURLINGTON, et al

Garrett E. Brown, Jr., presiding

Date filed: 06/22/1995

Date terminated: 09/04/1997





Date of last filing: 09/04/1997

History

Doc. No.	Dates	Description
--	<i>Filed & Entered:</i> 09/04/1997	Terminated Case
37	<i>Filed & Entered:</i> 09/04/1997	Order
--	<i>Filed & Entered:</i> 06/06/1997	Set/Reset Deadlines
36	<i>Filed:</i> 06/05/1997 <i>Entered:</i> 06/10/1997	Minutes - Miscellaneous
34	<i>Filed & Entered:</i> 05/22/1997	Order
35	<i>Filed & Entered:</i> 05/22/1997	Order
33	<i>Filed & Entered:</i> 03/25/1997	Order
31	<i>Filed & Entered:</i> 03/17/1997	Order
32	<i>Filed:</i> 03/17/1997 <i>Entered:</i> 03/18/1997	Minutes - Miscellaneous
27	<i>Filed:</i> 02/25/1997 <i>Entered:</i> 02/26/1997 <i>Terminated:</i> 03/25/1997	Motion for Summary Judgment
28	<i>Filed:</i> 02/25/1997 <i>Entered:</i> 02/26/1997	Certification
29	<i>Filed:</i> 02/25/1997 <i>Entered:</i> 02/26/1997	Certification
30	<i>Filed:</i> 02/25/1997 <i>Entered:</i> 02/26/1997 <i>Terminated:</i> 05/22/1997	Motion for Summary Judgment
26	<i>Filed & Entered:</i> 02/20/1997 <i>Terminated:</i> 03/17/1997	Motion for Summary Judgment
--	<i>Filed:</i> 10/16/1996 <i>Entered:</i> 10/18/1996	Pretrial Conference - Initial
25	<i>Filed:</i> 10/16/1996 <i>Entered:</i> 10/18/1996	Pretrial Order
24	<i>Filed & Entered:</i> 10/07/1996	Notice (Other)
23	<i>Filed:</i> 06/17/1996 <i>Entered:</i> 06/18/1996	Scheduling Order
--	<i>Filed:</i> 06/14/1996	Scheduling Conference

EXHIBIT C

	<i>Entered:</i>	06/18/1996	
22	<i>Filed:</i> <i>Entered:</i>	05/24/1996 05/30/1996	● Notice (Other)
--	<i>Filed & Entered:</i>	05/23/1996	● Set/Reset Deadlines
21	<i>Filed & Entered:</i> <i>Terminated:</i>	05/23/1996 09/04/1997	● Answer to Amended Complaint
--	<i>Filed & Entered:</i>	05/06/1996	● Set/Reset Deadlines
20	<i>Filed:</i> <i>Entered:</i> <i>Terminated:</i>	04/24/1996 04/25/1996 09/04/1997	● Answer to Amended Complaint
19	<i>Filed:</i> <i>Entered:</i>	03/15/1996 03/18/1996	● Amended Complaint
17	<i>Filed:</i> <i>Entered:</i>	02/20/1996 02/21/1996	● Minutes - Miscellaneous
18	<i>Filed:</i> <i>Entered:</i>	02/20/1996 02/22/1996	● Order
15	<i>Filed:</i> <i>Entered:</i> <i>Terminated:</i>	01/26/1996 01/29/1996 02/20/1996	● Motion to Amend/Correct
16	<i>Filed:</i> <i>Entered:</i>	01/26/1996 01/29/1996	● Certification
14	<i>Filed:</i> <i>Entered:</i>	01/16/1996 01/17/1996	● Scheduling Order
--	<i>Filed:</i> <i>Entered:</i>	01/12/1996 01/17/1996	● Telephone Conference
13	<i>Filed:</i> <i>Entered:</i>	12/06/1995 12/07/1995	● Letter
12	<i>Filed:</i> <i>Entered:</i>	11/20/1995 12/04/1995	● Notice (Other)
11	<i>Filed:</i> <i>Entered:</i>	11/09/1995 11/22/1995	● Notice (Other)
9	<i>Filed & Entered:</i>	10/20/1995	● Scheduling Order
10	<i>Filed & Entered:</i>	10/20/1995	● Miscellaneous Document
--	<i>Filed:</i> <i>Entered:</i>	10/19/1995 10/20/1995	● Scheduling Conference
8	<i>Filed:</i> <i>Entered:</i> <i>Terminated:</i>	10/13/1995 10/17/1995 09/04/1997	● Answer to Crossclaim
6	<i>Filed & Entered:</i>	08/16/1995	● Waiver of Service Executed
7	<i>Filed & Entered:</i>	08/16/1995	● Summons Returned Executed
5	<i>Filed & Entered:</i>	08/08/1995	● Order
4	<i>Filed & Entered:</i> <i>Terminated:</i>	08/04/1995 09/04/1997	● Answer to Complaint

3	<i>Filed & Entered:</i> 07/27/1995 <i>Terminated:</i> 09/04/1997	 Answer to Complaint
--	<i>Filed & Entered:</i> 06/27/1995	 Summons Issued
2	<i>Filed & Entered:</i> 06/27/1995	 Case Assigned/Reassigned
1	<i>Filed:</i> 06/22/1995 <i>Entered:</i> 06/27/1995	 Complaint

PACER Service Center			
Transaction Receipt			
08/23/2008 11:06:14			
PACER Login:	mc2494	Client Code:	
Description:	History/Documents	Search Criteria:	3:95-cv-03043-GEB
Billable Pages:	1	Cost:	0.08

File No. 06848-0337-JBD

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Attorneys for Defendant(s), Burlington County Board of Chosen Freeholders and Juel Cole

ALBERT FLORENCE,

Plaintiff(s),

vs.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
HONORABLE JOSEPH H. RODRIGUEZ

CIVIL ACTION NO. 05cv3619(JHR)

BOARD OF CHOSEN FREEHOLDERS
OF THE COUNTY OF BURLINGTON;
BURLINGTON COUNTY JAIL;
WARDEN JUEL COLE, INDIVIDUALLY
AND OFFICIALLY AS WARDEN OF
BURLINGTON COUNTY JAIL; ESSEX
COUNTY CORRECTIONAL FACILITY,
ESSEX COUNTY SHERIFF'S
DEPARTMENT; STATE TROOPER
JOHN DOE INDIVIDUALLY AND IN
HIS CAPACITY AS A STATE
TROOPER, & JOHN DOES 1-3 OF
BURLINGTON COUNTY JAIL &
ESSEX COUNTY CORRECTIONAL
FACILITY WHO PERFORMED THE
STRIP SEARCHES, & JOHN DOES 4-5,
Defendant(s).

**INITIAL DISCLOSURE ON
BEHALF OF BURLINGTON COUNTY
DEFENDANTS PURSUANT TO
FED. R. CIV. C.P. 26**

I. INDIVIDUALS WITH KNOWLEDGE

a. Warden Juel Cole has knowledge concerning both the standard operating

procedures of the Burlington County Jail, and specific facts pertinent to intake and incarceration of the plaintiff.

- b. Sgt. Chilton of the Burlington County Jail has knowledge concerning both the standard operating procedures of the Burlington County Jail and specific facts pertinent to intake and incarceration of the plaintiff.
- c. Trooper J. Flynn has information concerning the stop of the plaintiff and his wife, plaintiffs arrest and his remand to the custody of the Burlington County Jail pending pickup by the Essex County Sheriffs Department.
- d. Members of the Essex County Sheriffs Department have information concerning the status of the bench warrant existing at the time of plaintiffs arrest.
- e. The Burlington County defendants reserve the right to amend this disclosure as additional individuals become known through the course of investigation and discovery.

II. PERTINENT DOCUMENTS

All documents maintained by the Burlington County Jail relative to the incarceration of the plaintiff, which have been found to date, have already been produced. An additional copy of those documents is attached hereto.

III. DAMAGES

None as a result of the action or inaction of these defendants.

IV. INSURANCE INFORMATION

At the time of plaintiffs incarceration the County of Burlington and its employees were self-insured for all claims up to and including the amount of \$200,000.00. Once the \$200,000 self-insured retention is met, the County maintained \$10 Million Dollars in General Liability, Law Enforcement Liability, Employee Benefits Liability and Police Official Liability insurance coverage with State National Insurance Company pursuant to Policy No. MDB 0266755. If a copy of the policy form or declarations page is required it will be produced upon request.

PARKE McCAY, P.A.
Attorneys for Defendants Burlington County
Board of Chosen Shareholders and Juel Cole
/s

BURLINGTON COUNTY FREEHOLDERS



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Burlington County Freeholder Information

The official governing body for the County of Burlington is called the **Board of Chosen Freeholders**. The Board consists of five members; one or two are elected each year from the county at large terms of three years. The Freeholder Director is elected annually by the Board.

Click on the links below to find out more about our Freeholders, our governing body and our Programs.

The Burlington County Board Of Chosen Freeholders

[Freeholder Meeting Schedule](#)



Stacey F. Jordan

Links

[Information](#)

[Email Stacey F. Jordan](#)



Joseph B. Donnelly

Links

[Information](#)

[Email Joseph B. Donnelly](#)

Aubrey A. Fenton

Links

[Information](#)

[Email Aubrey A. Fenton](#)



Definition Of A Freeholder

Historically

The term "Freeholder" originated in England and is unique in the United States to the State of New Jersey. It is comparable to County Commissioner or Supervisor in other states.

Originally, a freeholder was a person the British Royal Court considered responsible in character, or in favor with the King, and therefore, worthy as an owner or holder of land grants in the New American Colony.

Burlington County was officially incorporated on May 17, 1694. On July 2, 1776, two days before the Declaration of Independence, the Provincial Congress of New Jersey declared its separation from King George and Britain. The meeting provided that qualified voters were to elect officers, choosing one freeholder to represent each municipality in a county. The basic law establishing the freeholders form of county government in New Jersey was established in 1798.

Eventually, freeholder boards became too large and unwieldy. As an example, in 1916, there were thirty seven members of the Burlington County Board of Chosen Freeholders who met as a group only six times during that year.



Burlington County Board of Chosen Freeholders circa 1916

In 1918, under the provisions of the Gill Act, a referendum was approved by the Burlington County voters which reduced the number of freeholders on the Board. Today, the forty municipalities of Burlington County elect, at large, a total of five freeholders to represent the citizens county-wide. Current state statutes limit freeholder board memberships to three to nine members, depending on the county population.

Today

Freeholders have both administrative and policy making powers. Each Burlington County Freeholder oversees a particular area of service: Administration; Education and Human Services; Public Safety and Solid Waste; Economic Development and Public Works; and Land Use and Public Affairs.

The freeholders meet in open work session every Wednesday and hold formal public meetings to take official actions every second Wednesday of the month at 11:00 a.m. and every fourth